

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM ANDREW SMITH,

Defendant.

**8:18CR103**

**ORDER**

On May 30, 2018, Defendant filed an Unopposed Motion to Continue Trial ([Filing No. 17](#)), asserting that he needed additional time to investigate this case and prepare for trial. Prior to the Court ruling on the motion, Defendant informed his counsel that he no longer wanted to waive his right to a speedy trial.

A hearing was held on June 5, 2018 regarding Defendant's Unopposed Motion to Continue Trial ([Filing No. 17](#)). Defendant was present with his counsel, Assistant Federal Public Defender Michael F. Maloney. The United States was represented by Assistant U.S. Attorney Erin Eldridge. At the hearing, Defendant's counsel indicated that he could not be ready for trial on the originally scheduled trial date of June 11, 2018. Defendant's counsel outlined on the record what work he had performed in this case, and stated the reasons why he requires additional time to prepare for trial. Defendant would not agree to any continuance of his original trial date.

The Court considered the arguments of counsel and Defendant, and found that although defense counsel has been duly diligent, additional time is needed to adequately prepare this case for trial and failing to grant additional time could result in a miscarriage of justice. The Court further found that the ends of justice served by granting the motion to continue outweigh the interests of the public and Defendant in a speedy trial.

At the hearing, Defendant also made an oral request to have new counsel appointed to represent him. Following an *in camera* discussion with Defendant and Mr. Maloney, the Court



denied Defendant's request. Therefore, Mr. Maloney will continue to represent Defendant in these proceedings.

Accordingly,

**IT IS ORDERED:**

1. Defendant's Unopposed Motion to Continue Trial ([Filing No. 17](#)) is granted.
2. The trial of this case is set to commence before the Honorable Robert F. Rossiter, Jr., United States District Judge, in Courtroom 4, Roman L. Hruska United States Courthouse, Omaha, Nebraska, at 9:00 a.m. on September 4, 2018, or as soon thereafter as the case may be called, for a duration of four (4) trial days. Jury selection will be held at commencement of trial.
3. The Court finds the ends of justice served by granting the Motion to Continue Trial outweigh the interests of the public and Defendant in a speedy trial. The additional time arising as a result of the granting of the motion, the time between today's date and September 4, 2018, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because although counsel have been duly diligent, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1) & (h)(7). Failing to timely object to this order as provided under this Court's Local Rules will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.
4. Defendant's oral motion for the appointment of new counsel is denied.

Dated this 5th day of June, 2018.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge